In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 13675 of 2005

Date of Decision: 14.12.2006

Madan Lal

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. H.N. Khanduja, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana,
for the respondents.

JUDGMENT

M.M. KUMAR, J. (Oral)

In the instant petition filed under Article 226 of the Constitution the prayer made by the petitioner is for issuance of a writ in the nature of certiorari for quashing order dated 4.3.2005 (P-3) whereby pension and commuted pension has been granted to him by counting only regular service followed by regularisation and the past service rendered by the petitioner on daily wage basis has not been counted towards grant of pension and other consequential benefits. A further prayer has been made for directing the respondents to count

the service rendered by the petitioner on daily wages for all intent and purposes and grant of all the consequential benefits accruing therefrom. The petitioner was appointed on daily wages as Beldar in the respondent department and had been working as such since 1978. The services of the petitioner were regularised w.e.f. 1.2.1996. He retired from service w.e.f. 28.2.2005 on completion of superannuation age of sixty years. On 29.7.2004 the petitioner has also served a legal notice (P-1).

The matter is not res-integra as the issue raised in the instant petition has already been settled by this Court in the case of **Dharam Pal v. The Superintending Engineer, Operation Circle UNBVNL, Karnal and another** (CWP No. 1150 of 2005, decided on 21.11.2006). In that case reliance has been placed on a Full Bench judgment of this Court in the case of **Kesar Chand v. State of Punjab, 1988 (2) PLR 223** and two Division Bench judgments in the cases of **Hazura Singh v. State of Punjab, 2004 (1) SCT 695** and **Mangat Ram v. Haryana Vidyut Prasaran Nigam Ltd., 2005 (4) SCT 302**. The petitioner has also placed reliance on the judgments of this Court in the cases of Joginder Singh v. State of Haryana, 1997(7) SLR 51 (Annexure P-2); Mohan Singh v. State of Haryana, 1991(3) RSJ 628 (Annexure P-4); and Nasib Singh v. State of Punjab, 1999(4) RSJ 244 (Annexure P-5); Baldev Singh v. State of Punjab (C.W.P. No. 16786 of 2001, decided on 5.12.2002, Annexure P-6); Hari Chand v. Bhakra Beas Management Board (C.W.P. No. 7378 of 2003, decided on 17.1.2005, Annexure P-8); and Chandu Ram v. The

Commissioner & Secretary PWD B&R, Haryana (C.W.P. No. 6939 of 2005, decided on 17.5.2005, Annexure P-10).

On principle, precedents as well as the rules, the claim of the petitioners deserves to be accepted. Accordingly, we allow the writ petition. The respondents are directed to consider the service rendered by the petitioner on work-charge basis and count the same as qualifying service in accordance with Rule 3.17 A(a) and (d). The petitioner shall also be entitled to interest on the delayed payment of pension from the date it was payable till the date of its actual payment at the rate of 9 per cent per annum.

The needful shall be done within a period of two months from the date a certified copy of the order is supplied to the respondents.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

December 14, 2006
Pkapoor